

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21014

Application 30314 of

City of Plymouth
c/o Jon Colburn
P.O. Box 429
Plymouth, CA 95669

filed on **December 9, 1993**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Tributary to:

1) Big Indian Creek

2) Big Gulch

3) Unnamed Stream

Cosumnes River

Big Indian Creek thence

Cosumnes River

Big Indian Creek thence

Cosumnes River

within the **County of Amador**

2. Location of point of diversion

By California Coordinate System in Zone #	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
1) South 150 feet and East 1,000 feet from NW corner of Section 1	NW¼ of NW¼	1	7N	10E	MD
2) South 850 feet and West 600 feet from NE corner of Section 35	NE¼ of NE¼	35	8N	10E	MD
3) Point of Diversion and Rediversion; South 200 feet and West 1,200 feet from NE corner of Section 2	NE¼ of NE¼	2	7N	10E	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Municipal	City of <u>Plymouth</u> N½	11	7N	10E	MD	
	S½	11	7N	10E	MD	
	E½ of NE¼	10	7N	10E	MD	
	SE¼ of SE¼	3	7N	10E	MD	
	S½ of SW¼	2	7N	10E	MD	
	SW¼ of SE¼	2	7N	10E	MD	
	E½ of NE¼	10	7N	10E	MD	
	NW¼	12	7N	10E	MD	
	W½ of SW¼	12	7N	10E	MD	
	E½ of NE¼	15	7N	10E	MD	

The place of use is shown on map on file with the State Water Resources Control Board.

This permit is subject to the following terms and conditions:

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 15 cubic feet per second by direct diversion and 1,500 acre-feet per annum to be diverted from November 1 of each year to June 30 of the succeeding year. The maximum amount diverted under this permit shall not exceed 2,000 acre-feet per water year of October 1 to September 30.

(0000005)

The maximum rate of diversion to offstream storage shall not exceed 30 cubic feet per second.

(000005J)

6. Construction work shall be prosecuted with reasonable diligence and shall be completed by December 31, 2004.

(0000008)

7. Complete application of the water to the authorized use shall be made by December 31, 2009.

(0000009)

8. During the season specified in this permit, the total quantity and rate of water diverted, stored, and used under this permit and under permittee's claimed existing right for the place of use specified in the permit shall not exceed the quantity and rate of diversion, storage, and use, respectively, specified in this permit. If the permittee's claimed existing right is quantified at some later date as a result of an

adjudication or other legally binding proceeding, the quantity and rate of diversion, storage, and use allowed under this permit shall be the net of the face value of the permit less the amounts of water available under the existing right.

Permittee shall forfeit all rights under this permit if permittee transfers all or any part of the claimed existing right for the place of use covered by this permit to another place of use without the prior approval of the State Water Resources Control Board.

Permittee shall take and use water under the existing right claimed by permittee only in accordance with law. (0000021)

9. Permittee shall consult with the Division of Water Rights and, within one year from the date of this permit, shall submit to the State Water Resources Control Board its Urban Water Management Plan as prepared and adopted in conformance with Section 10610, et seq. of the California Water Code, supplemented by any additional information that may be required by the Board.

All cost-effective measures identified in the Urban Water Management Plan and any supplements thereto shall be implemented in accordance with the schedule for implementation found therein. (0000029A)

10. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

11. Permittee shall install and properly maintain in the reservoir a staff gage, satisfactory to the State Water Resources Control Board, for the purpose of determining water levels in the reservoir.

Permittee shall record the staff gage readings on or about October 1 of each year. Such readings shall be supplied to the State Water Resources Control Board with the next progress report submitted to the Board by permittee.

The State Water Resources Control Board may require the release of water which cannot be verified as having been collected to storage under the conditions of the permit prior to October 1 of each year.

Permittee shall allow the State Water Resources Control Board and all successors in interest, or a designated representative, reasonable access to the reservoir for the purpose of verifying staff gage readings and determining water levels in the reservoirs. (0070047)
(0100047)

12. If the storage dam will be of such size as to be within the jurisdiction of the Department of Water Resources as to safety, construction under this permit shall not be commenced until the Department has approved the plans and specifications for the dam. (0360048)

13. In accordance with the requirements of Water Code Section 1393, permittee shall clear the site of the proposed reservoir of all structures, trees, and other vegetation which would interfere with the use of the reservoir for water storage and recreational purposes.

(120050)

14. For the protection of fish and wildlife, permittee shall continually bypass a minimum of 1.0 cubic foot per second on Big Indian Creek throughout the authorized diversion season. The total Big Indian Creek streamflow shall be bypassed whenever it is less than the designated amount.

No water shall be diverted under this permit until the permittee has either:

- i. designed and constructed a passive bypass system in the diversion structure that shall continually bypass the flows on Big Indian Creek until the streamflow exceeds 1 cubic foot per second; or
- ii. installed a device, satisfactory to the State Water Resources Control Board, which is capable of measuring the bypass flows required by the conditions of this permit.

The bypass system or streamflow measuring device shall be properly operated and maintained as long as any water is diverted under this permit or any license issued pursuant thereto. If the bypass system streamflow measuring device becomes inoperative for any reason, permittee shall cease all diversion of water until said system or device is fully restored to service.

(0140060)

15. No water shall be diverted under this permit until permittee has installed a device, satisfactory to the State Water Resource Control Board, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.

(0060062)

16. In accordance with Section 1601, 1603, and/or Section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

17. The State Water Resources Control Board reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the Board concerning availability of water and the protection of beneficial uses of water in the Sacramento-San Joaquin Delta and San Francisco Bay. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000080)

18. This permit is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variations in demands and hydrologic conditions in the Cosumnes River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or completely eliminated on order of this Board made after notice to interested parties and opportunity for hearing.

(0000090)

19. No diversion is authorized by this permit when satisfaction of inbasin entitlements requires release of supplemental Project water by the Central Valley Project or the State Water Project.

- a. Inbasin entitlements are defined as all rights to divert water from streams tributary to the Sacramento-San Joaquin Delta or the Delta for use within the respective basins of origin or the Legal Delta, unavoidable natural requirements for riparian habitat and conveyance losses, and flows required by the State Water Resources Control Board for maintenance of water quality and fish and wildlife. Export diversions and Project carriage water are specifically excluded from the definition of inbasin entitlements.
- b. Supplemental Project water is defined as that water imported to the basin by the projects plus water released from Project storage which is in excess of export diversions, Project carriage water, and Project inbasin deliveries.

The State Water Resources Control Board shall notify permittee of curtailment of diversion under this term after it finds that supplemental Project water has been released or will be released. The Board will advise permittee of the probability of imminent curtailment of diversion as far in advance as practicable based on anticipated requirements for supplemental Project water provided by the Project operators.

(0000091)

20. In order to prevent degradation of the quality of water during and after construction of the project, prior to commencement of construction, permittee shall file a report pursuant to Water Code Section 13260 and shall comply with all waste discharge requirements imposed by the California Regional Water Quality Control Board, Central Valley Region, or by the State Water Resources Control Board.

(0000100)

21. This water storage permit is specifically subject to the prior rights of Rancho Murieta Community Services District, including but not limited to those appropriations issued pursuant to License 537 (Application 1838), License 2629 (Application 2296), License 6238 (Application 16142), and Permit 16762 (Application 23416) and riparian rights held by the District.

(000T011)

22. Permittee shall not divert water from Big Indian Creek Under this permit whenever flow at the Michigan Bar streamgauge is less than 100 cubic feet per second. Rancho Murieta Community Services District shall inform the City of Plymouth when this condition is in effect.

(0350900)

23. If it is determined after permit issuance that the as-built conditions of the project are not correctly represented by the map (s) prepared to accompany this application, permittee shall, at his expense, have the subject map(s) updated or replaced with equivalent as-built map(s). Said revision(s) or new map(s) shall be prepared by a civil engineer or land surveyor registered or licensed in the State of California and shall meet the requirements prescribed in section section 715 and sections 717 through 723 of the California Code of Regulations, Title 23, and shall be furnished upon request of the Chief, Division of Water Rights.

(0490999)

24. All permits issued by the State Water Resources Control Board are subject to the following terms and conditions:

(A) Permittee shall maintain records of the amount of water diverted and used to enable the State Water Resources Control Board to determine the amount of water that has been applied to beneficial use pursuant to Water Code Section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(D) Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

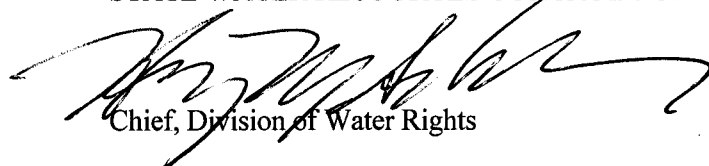
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: DEC - 8 1999

STATE WATER RESOURCES CONTROL BOARD



Chief, Division of Water Rights